

**Statement**

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**Before the**

**Subcommittee on National Parks  
Senate Energy and Resources Committee  
United States Senate**

**Concerning**

**S. 2727 Paleontological Resources Preservation Act, and  
H.R. 3954 Caribbean National Forest Wild and Scenic Rivers Act**

Mr. Chairman and members of the subcommittee, thank you for the opportunity to be here today. I am Elizabeth Estill, Deputy Chief for Programs and Legislation, USDA Forest Service. I will provide the Department's comments on two bills: S. 2727 Paleontological Resources Preservation Act, and H.R. 3954 Caribbean National Forest Wild and Scenic Rivers Act.

Uniform guidelines for paleontological resources management and special protection for vertebrate paleontological resources are greatly needed on National Forest lands. Forest users, amateurs and scientists alike, are demanding opportunities for recreation, education, interpretation, and the scientific study of fossils. As these legitimate demands increase so does the amount of illegal activity such as theft and vandalism. Therefore, clearly defined, consistent penalties to deter theft and vandalism of fossils from federal lands are also needed. USDA supports the purpose of S.2727 to establish a comprehensive national policy for preserving and managing paleontological resources on Federal lands.

The Forest Service currently manages paleontological resources under a patchwork of laws that do not specifically address the unique characteristics or provide adequate management and protection of the resource. These laws include the Organic Administration Act of 1897, the Archaeological Resource Protection Act of 1979, and the Federal Cave Resources Protection Act of 1988. The later statutes only protect paleontological resources when they are associated with archeological resources, or when they occur in caves, respectively.

Between 1991 and 1996, a full one-third of all fossil sites inventoried in the Oglala National Grassland in Nebraska were found to have been vandalized, and as a result, valuable data

was lost to science and to the public. In 1996, a case involving fossil theft on National Forest System lands in California which was prosecuted under civil authority by the Department of Justice and ultimately settled out of court, pointed out the need for more specific statutes and regulations related to theft of federal fossils.

S.2727 directs the Secretary of the Interior and the Secretary of Agriculture to manage and protect paleontological resources using scientific principles. The bill recognizes the non-renewable nature of fossils and defines paleontological resources as fossilized remains preserved in or on the Earth's crust. The bill goes on to separate these resources from archeological resources, covered under the Archaeological Resources Protection Act (ARPA), cultural resources, covered under statutes such as the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act (NAGPRA) and mineral resources.

If enacted, the bill would establish non-commercial collection provisions including permitting requirements for scientific and educational purposes using uniform and consistent criteria. S. 2727 recognizes that paleontological resources are federal property, and that the fossil as well as the associated field data and other records will be preserved and made available to the public. S. 2727 is also important to the Forest Service because it recognizes casual collecting of invertebrate and plant fossils for recreational, non-commercial use as a valid public activity on National Forests for which a permit may not be required where the collecting is in compliance with land management statutes and with the act.

S. 2727 provides for uniform criminal penalties for all the federal managing agencies for theft and damage of paleontological resources. Currently, there is a complex mix of sentencing laws, regulations and guidelines that has created confusion for magistrates. For example, for the Forest Service, a first offense is a Class B Misdemeanor, punishable for not more than 6 months imprisonment, or \$5,000 fine, or both. For the Bureau of Land Management (BLM), it is a Class A Misdemeanor, which is punishable for not more than 1-year imprisonment, or \$10,000, or both. The penalties defined in S.2727 are consistent with proposed recommendations of the U.S. Sentencing Commission for increased penalties for cultural heritage resources.

Mr. Chairman, paleontological resources, especially vertebrate fossils, are heritage resources. They are evidence of the past history of life on Earth. They provide opportunities for the public to learn more about ancient Earth ecosystems and the development of life from research and study of these resources. The Forest Service is a steward of these heritage resources and is committed to their protection while providing opportunities for research, education, and recreation. The Paleontological Resources Protection Act would help secure the authority of the Forest Service to manage and protect all paleontological resources on National Forest System lands.

H.R. 3954 Caribbean National Forest Wild and Scenic Rivers Act of 2002

H.R. 3954 Caribbean National Forest Wild and Scenic Rivers Act amends Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) to designate three rivers in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic River System. The segments to be designated by H.R. 3954 include 4.5 miles of the Rio Mameyes, 2.1 miles of the Rio de la Mina, and 2.3 miles of the Rio Icacos. All three stream segments were recommended for inclusion in the Wild and Scenic Rivers System through the revision of the Caribbean National Forest/Luquillo Experimental Forest Plan. H.R. 3954 would allow, subject to the Secretary's discretion, installation and maintenance of data collection and transmission facilities, construction and maintenance of structures to allow monitoring of threatened and endangered species, and construction and maintenance of trails for research facilities, consistent with protecting the characteristics of the river that merited its designation as a wild, scenic, or recreation river.

The Department supports H.R. 3954.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions from you and the other Members of the Subcommittee.